

ENTERED

September 29, 2023

Nathan Ochsner, Clerk

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:**Mountain Express Oil Company, et al.,****Debtors.¹**

§

§ **Chapter 7**§ **(previously Chapter 11)**

§

§ **Case No. 23-90147 (DRJ)**

§

§ **Jointly Administered**

(Docket No. 1499)

**AGREED ORDER APPROVING SALE OF ASSETS FREE AND CLEAR OF LIENS,
CLAIMS, INTERESTS AND ENCUMBRANCES UNDER 11 U.S.C. § 363(F)**

Upon consideration of the *Chapter 7 Trustee's Emergency Motion for Approval of Sale of Assets Free and Clear of Liens, Claims, Interests, and Encumbrances Pursuant to 11 U.S.C. § 363(f)* (the "Motion"),² the Court has reviewed the Motion and is of the opinion that the Motion should be granted. The Court has jurisdiction over the Motion and the relief requested in the Motion pursuant to 28 U.S.C. § 1334. The Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and the Court may enter an order on the Motion. The relief requested by the Motion is in the best interests of the Debtors' estates and their creditors, and the Trustee gave sufficient and proper notice of the Motion and related hearings. It is therefore **ORDERED THAT**

1. The Sale Transaction is authorized as follows:
 - a. Trustee, on behalf of the Debtors' estates, ("Seller") hereby sells, assigns, conveys, transfers, and delivers to SCHIERL SALES CORP., or its assigns ("Buyer"), all right, title and interest of Seller in and to all of the following assets relating to the twenty-five (25) convenience stores sold by Buyer and its affiliates to Mountain Express Oil Company pursuant to that certain Purchase and Sale Agreement dated January 27, 2022, as amended:

¹ A complete list of each of the Debtors in these chapter 7 cases may be obtained on the Court's website at www.ecf.txsb.uscourts.gov. The location of Debtor Mountain Express Oil Company's principal place of business and the Debtors' service address in these chapter 7 cases is 3650 Mansell Road, Suite 250, Alpharetta, GA 30022.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

Purchased Assets: (i) the registered trademarks consisting of “The Store” “Impact Rewards” and “Aromas Beverage Bar” and all other registered and unregistered tradenames, trademarks, logos, service marks, copyrights, intellectual property rights, and all goodwill associated therewith; (ii) all contract rights (including but not limited to the Transition Services Agreement) and all other leasehold interests and franchise rights; (iii) all assignable permits and licenses; and (iv) all books, records, customer and vendor information, data and files of any kind for the twenty-five convenience stores sold to MEX under the PSA (collectively, the **Purchased Assets**”).

- b. Seller represents that it has authority to sell all of the estates’ interests in the Purchased Assets described above. Except for the foregoing representation, Buyer accepts the Purchased Assets “**AS IS, WHERE IS, with all faults**” and without warranty of any kind.
- c. Seller further undertakes that it will execute and deliver such additional documents and take such further actions as may be reasonably required in order to confirm and further effectuate the sale and assignment of the Purchased Assets to Buyer. The foregoing shall be binding upon Seller, its successors and assigns, and shall inure to the benefit of Buyer and its successors and assigns.

2. The Transition Services Agreement is hereby rejected and terminated pursuant to 11 U.S.C. § 365(a) as of the date of entry of this Agreed Order.

3. Pursuant to 11 U.S.C. § 363(f), the Sale Transaction shall be free and clear of any liens, claims, interests and encumbrances, including liens held by any taxing authority, on any of the Purchased Assets and such liens, claims or encumbrances shall attach to the proceeds of the sale of such assets with the same priority and validity as existed on such assets immediately prior to the sale, subject to the provisions of the Final DIP Financing Order and cash collateral orders entered in these cases.

4. All persons holding any lien, claim, or encumbrance against or in any of the assets of any kind or nature whatsoever, including all taxing authorities, are forever barred, estopped, and permanently enjoined from asserting, prosecuting or otherwise pursuing such lien, claim, interest or encumbrance against the purchaser of the respective assets or the assets themselves.

5. The Buyer is a buyer in good faith of the Purchased Assets and is entitled to all protections afforded by section 363(m) of the Bankruptcy Code.

6. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be effective and enforceable immediately upon entry hereof.

7. The Trustee is authorized and empowered to take all actions necessary to implement the relief granted in this Order.

8. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order.

Signed: September 29, 2023.



DAVID R. JONES
UNITED STATES BANKRUPTCY JUDGE

AGREED:

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